



STATE OF WASHINGTON

PUBLIC DISCLOSURE COMMISSION

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BEFORE THE PUBLIC DISCLOSURE COMMISSION
OF THE STATE OF WASHINGTON

IN THE MATTER OF ENFORCEMENT)
ACTION AGAINST)

John Ladenburg, Pierce County Executive)

Respondent.)

PDC CASE NO: 04-440

Notice of Administrative
Charges

IT IS ALLEGED as follows:

I.
JURISDICTION

Jurisdiction of this proceeding is based on Chapter 42.17 RCW, the Public Disclosure Act, Chapter 34.05, Administrative Procedure Act, and Title 390 WAC.

II.
LAW

RCW 42.17.130 states in part: "No elective official nor any employee of his office nor any person appointed to or employed by any public office or agency may use or authorize the use of any of the facilities of a public office or agency, directly or indirectly, for the purpose of assisting a campaign for election of any person to any office or for the promotion of or opposition to any ballot proposition. Facilities of public office or agency include, but are not limited to, use of stationery, postage, machines, and equipment, use of employees of the office or agency during working hours, vehicles, office space, publications of the office or agency and clientele lists of persons served by the office or agency..."

*"The public's right to know of the financing of political campaigns and lobbying
and the financial affairs of elected officials and candidates far outweighs
any right that these matters remain secret and private."*

RCW 42.17.010 (10)



III.

BACKGROUND

On October 31, 2003, Dale Washam filed a complaint with the Public Disclosure Commission alleging that officials of Pierce County used Pierce County facilities to support Proposition 1, a proposed public safety and criminal justice sales tax increase that was on the November 4, 2003 general election ballot. Two additional complaints alleging similar violations were received from Donald Veal and David Franta on November 3 and November 4, 2003, respectively.

The complaints alleged that Pierce County officials produced and distributed two postcards that promoted passage of Proposition 1. One of the complaints also alleged that the postcards were targeted to registered voters.

The Pierce County Council appropriated money to be used to distribute information to the public regarding the impacts of Proposition 1 on Pierce County. John Ladenburg is the Pierce County Executive who approved the postcards and Ronald Klein is the Pierce County Director of Communications who wrote the postcards at Mr. Ladenburg's direction. Proposition 1 failed to pass.

IV.

FACTS

These charges incorporate the Report of Investigation and all of its exhibits by reference.

Ballot Proposition – On August 5, 2003, the Pierce County Council introduced a Pierce County Ordinance to place a proposed public safety and criminal justice sales tax increase measure on the ballot. On September 2, 2003, the Council approved the ordinance, placing Proposition 1 on the November 4, 2003 general election ballot. Proposition 1 proposed increasing the sales and use tax in Pierce County by three tenths of one percent, to fund criminal justice activities. The proposed sales and use tax increase excluded purchases of food, medicine and automobiles.

Appropriation of funds to distribute information to the public - The Pierce County Council appropriated \$60,000 to be used to distribute information to the public regarding the impacts of Proposition 1 on Pierce County. Two postcards were produced and distributed in a style typical of what campaign committees produce and distribute.

Content of first postcard – The first “super postcard” includes in large type:

Important Information About Your Taxes and Safety

By placing a high emphasis on the safety of Pierce County residents, the postcard creates a sense of fear for what will happen if Proposition 1 does not pass. On the reverse side of the postcard, it states in large type, “*Why do Pierce County, Tacoma and other cities need more police officers, an improved court system and increased public safety?*” It then gave six answers, each with a check mark to emphasize its importance. The answers are as follows:

- ✓ Pierce County ranks 38th out of 39 counties in the number of officers per citizens
- ✓ We have the highest violent crime rate in the state
- ✓ The most felony convictions
- ✓ The most sex offenders
- ✓ The second most auto thefts
- ✓ The most meth-manufacturing labs on the West Coast.

The postcard lists five crime related statistics that evoke strong emotion in the reader, followed by a statistic that Pierce County ranks 38th out of 39 counties in the number of officers per citizens, implying that law enforcement protection in Pierce County for the types of crimes listed is minimal and that if more funding is not secured, the safety of Pierce County residents could be in grave jeopardy.

To answer the question, "What will Proposition 1 do?" four answers are given. Each answer starts with a word in bold type to emphasize the benefits of passing Proposition 1. The explanation of what Proposition 1 will do is as follows:

- ❖ **Increase** law enforcement and reduce response time by hiring more than 100 new county and city police officers
- ❖ **Provide** prompt justice and accountability for offenders by increasing the numbers of judges, prosecuting attorneys and public defenders
- ❖ **Assure** that offenders do not receive early release and the remaining areas of the new jail can be opened by hiring more corrections officers
- ❖ **Protect** victims and keep young people out of jail by supporting domestic violence and juvenile crime prevention programs.

The four answers lead the reader to believe that by passing Proposition 1, many of Pierce County's crime problems will be solved. The postcard states the increase in sales tax if Proposition 1 passes. Under "What if Proposition 1 fails" the postcard includes a statement that if Proposition 1 fails, cities and counties will have the choice to do nothing, further reduce or eliminate other services to find funding, or resubmit the Proposition at a later date. When combined with the other statements in the postcard, the options lead the reader to believe that if nothing is done, several types of serious crime will increase and the safety of Pierce County residents could be in grave jeopardy.

Content of second postcard –

More Important Information About Proposition 1

The reverse side of the second postcard emphasizes in large type that Proposition 1 must be used for public safety purposes only. It then asks the question, “What will Proposition 1 do?” Each answer to this question starts with a word in bold type to emphasize the benefits of passing Proposition 1. The explanation of what Proposition 1 will do is as follows:

- ❖ **Hire** 100 more police officers in the cities and the county to improve law enforcement.
- ❖ **Fund** three new domestic violence centers to protect and assist victims and their children.
- ❖ **Save** criminal costs by funding juvenile crime prevention programs that keep children out of jail.
- ❖ **Protect** seniors from financial, physical and emotional abuse.
- ❖ **Hire** 48 corrections officers to prevent the early release of prisoners and open the remaining areas of the new jail.
- ❖ **Provide** prompt justice and accountability for offenders by increasing the number of judges, prosecuting attorneys and public defenders.

The postcard states the increase in sales tax if Proposition 1 passes, and then answers the question, “Why is Proposition 1 on the ballot?” by giving the following six reasons:

- ❖ We have the highest violent crime rate in the state.

- ❖ The most felony convictions.
- ❖ The most meth-manufacturing labs.
- ❖ The most sex offenders.
- ❖ The most auto thefts.
- ❖ Pierce County ranks 38th out of 39 counties in the number of officers per citizens

The second postcard was a re-packaged version of the first postcard. Its only purpose was to reinforce the message of the first postcard, that serious crime, including violent crime, is out of control in Pierce County, and the only way to fix it is to either provide the funding called for in Proposition 1 or eliminate existing county services to provide the necessary funding. No details are given of what programs would be reduced to provide the needed funding if Proposition 1 fails. The statement that Proposition 1 would “**Protect** seniors from financial, physical and emotional abuse” uses inflammatory language and is not an objective fact.

Distribution of postcards – John Ladenburg, Pierce County Executive, approved spending \$55,060 to produce and mail the two “super postcards” regarding Proposition 1. The first postcard was mailed on October 16 and 17, 2003, just two weeks before the election. The second postcard was mailed October 29 and 30, 2003, just days before the November 4th election. Mr. Ladenburg approved targeting the two postcards to households with a voter who had voted in two of the last four elections. The addresses and labels for the two postcard mailings were purchased for this specific purpose.

Past Advice from Public Disclosure Commission - On March 4, 1996, PDC staff sent a memo to Pierce County officials in response to a request to review a proposed fact sheet that Pierce County officials were planning to send to residents about a pending ballot proposition. One of the suggestions made by PDC staff was to remove the word “important” from the sentence “Please take time to learn about this important issue.” In the final version of the fact sheet that was distributed by Pierce County officials in 1996, the word “important” was removed. Yet, in

both postcards distributed by Pierce County officials in 2003, the word "Important" was emphasized in large boldface type.

Also, in reviewing the 1996 fact sheet, PDC staff recommended that the word "voters" be replaced with the word "residents" or "citizens" to remove any implication that the fact sheet was intended to solicit votes. Yet, when distributing the postcards in 2003, Pierce County officials only sent the material about the ballot proposition to registered voters.

Finally, in reviewing the 1996 fact sheet, PDC staff recommended that *language such as "several hundred prisoners may need to be released" and "the county will remain unable to arrest, prosecute, and sentence all criminals, and many prisoners will continue to be released early"*, should be removed because they could be interpreted as inflammatory statements, matters of opinion, or an emotional appeal for support. Yet, the two postcards distributed in 2003 included inflammatory language that amounted to an emotional appeal for support.

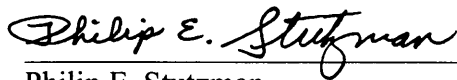
V. CONCLUSION

In 2003, John Ladenburg, Pierce County Executive, approved spending \$55,060 to produce and mail two "super postcards" regarding Proposition 1. The first postcard was sent approximately two weeks before the election and included in large type the words "**Important**", "**Your Taxes**" and "**Safety.**" It also included inflammatory language about crime in Pierce County that amounted to an emotional appeal for support. The second postcard was mailed less than a week before the November 4, 2003 election. It also used large type for the words "**More Important Information about Proposition 1.**" It restated the inflammatory language about crime in Pierce County. In addition to sending out two postcards, the second postcard was timed to arrive just days before the election to reinforce the message in the first postcard, rather than to clarify issues that were unclear or to provide information not available when the first postcard was sent. In addition, the postcards were targeted to registered voters who had voted in two of the last four elections, a tactic used by campaigns to target information to likely voters.

Staff alleges, based on the facts specified in Section IV, that John Ladenburg, Pierce County Executive, violated RCW 42.17.130 on multiple occasions by:

- Authorizing and directing the preparation and distribution of two “super postcards” that promoted the passage of Proposition 1. The production and distribution of the two postcards cost \$55,060.
- Authorizing and directing that the two “super postcards” be targeted for distribution to registered voters in Pierce County who had voted in two of the last four elections.

RESPECTFULLY SUBMITTED this 10th day of November, 2004.

A handwritten signature in cursive script that reads "Philip E. Stutzman". The signature is written in dark ink and is positioned above a horizontal line.

Philip E. Stutzman
Director of Compliance